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Art Unit 3637
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From: Werner H. Schroeder
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Number of pages including cover sheet: 16Comments: Appl. No. 10/679,469Response to a first Office Action

Werner H. Schroeder
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PTO/SB/21 (08-04)

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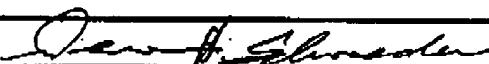
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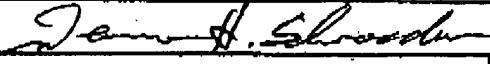
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Application Number	10/679,469
Filing Date	10/07/2003
First Named Inventor	Kevin T. Connolly
Art Unit	3637
Examiner Name	T. M. Ayres

ENCLOSURES (Check all that apply)		
<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/Declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/Incomplete Application <input type="checkbox"/> Reply to Missing Parts Under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input type="checkbox"/> Other Enclosure(s) (please identify below):
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Date	09/30/2005

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Response to a first Office Action

Application SN 10/679,489

This is a communication in response to a first Office Action having a mailing date of 09/23/2005 and setting forth a shortened statutory period for response of three months which would expire on 12/23/2005.

In response to the above office action, the applicant will follow the sequential paragraphs of the examiner's detailed action.

1) Claim Objections

The proper claim dependency number in claim 18 has been supplied;

2) and 3) Claim rejections under 35 U.S.C. 112;

Claims 1 - 4 have been canceled to thereby obviate the clause "substantially larger", The dependency of other claims has been changed to provide a proper antecedent by way of a new dependency,

4) - 17) The terms "permanently secured" and "about" are still in the claims because they are now believed to be dependent from an allowable claim.

18) and 20) Rejection under 35 U.S.C. 102(b). Claim 1 has been canceled.

21) and 22) Rejections under 35 U.S.C. 103.

Claims 2, 3, 17, 19 and 45 - 50 are rejected under 35 U.S.C 103 as unpatentable over Jensen over Shelton.

It is to be noted that the dependency of claims 17 and thereby claim 19 has been changed to be dependent from claim 5 and are no longer dependent from claim 1 which has been canceled. Thereby different issues are being created.

With regard to claims 45 - 50 it is to be noted that claim 45 recites that the angled member is angled relative to the ground. While this angle may be 90° relative to the ground it is not angled relative to a horizontal plane. This should patentably define over Shelton where the beam 5 and thereby the bracket 8 is angled at 90° relative to the support column 18.

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23) The examiner states "that it would have been obvious to take the hip beam of Jensen and cut it into two pieces at the point where the beam goes through the eye and then insert the bracket of Shelton in between the two pieces of the hip beam so that the rods (7,9) coaxial couple the two pieces of the tubular hip beam, the lower section being section the hip beam". The examiner continues to state that "it is within the one having ordinary skilled in the art to make the angled member of the bracket of Shelton at the angle of the hip beam of Jensen so that the angled member of the bracket of Shelton at the angle of the hip beam of Jensen so that the angle of Jensen's frame is maintained".

The applicant does not agree with this kind of reconstruction. There is no teaching in either of the references that this modification should be undertaking. The examiner is using applicant's specification to modify Jensen by using the Shelton reference. As a matter of fact, Jensen is teaching away from making the examiner's proposed modification. If the Jensen reference is modified as suggested by the examiner, then it cannot function anymore as intended. Note Fig. 5 of Jensen illustrating a collapsed frame with the top of the tent intact. If the examiner incorporates the bracket of Shelton into Jensen, the tent of Jensen cannot be collapsed anymore because there are now several rigid and separated parts that cannot be collapsed as shown in Fig. 5 of Jensen.

26) Claims 4, 5 and 21 are rejected under 35 U.S.C. 103 as being unpatentable over Jensen in view of Briggs. The characterization by the examiner of both the cited references is correct. Claim 4 has been canceled. Briggs does show a suspended platform and associated children's play devices. However, claim 5 has been amended that the toy devices are located on the platform and not associated therewith. This clearly places claim 5 in allowance because Briggs now fails to show or teach what is claimed.

28) The degrees recited in claim 21 is no longer an issue because claim 21

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